

§ 309.1 How do the regulations in this part carry out the Indian Arts and Crafts Act of 1990?

These regulations define the nature and Indian origin of products protected by the Indian Arts and Crafts Act of 1990 (18 U.S.C. 1159, 25 U.S.C. 305 et seq.) from false representations, and specify how the Indian Arts and Crafts Board will interpret certain conduct for enforcement purposes. The Act makes it unlawful to offer or display for sale or sell any good in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian, or Indian tribe, or Indian arts and crafts organization resident within the United States.

§ 309.2 What are the key definitions for purposes of the Act?

(a) *Indian* as applied to an individual means a person who is a member of an Indian tribe or for purposes of this part is certified by an Indian tribe as a non-member Indian artisan (in accordance with the provisions of § 309.4).

(b) *Indian artisan* means an individual who is certified by an Indian tribe as a non-member Indian artisan.

(c) *Indian arts and crafts organization* means any legally established arts and crafts marketing organization composed of members of Indian tribes.

(d) *Indian product*—(1) *In general.* The term “Indian product” means any art or craft product made by an Indian. For this purpose, the term “made by an Indian” means that an Indian has provided the artistic or craft work labor necessary to implement an artistic design through a substantial transformation of materials to produce the art or craft work. This may include more than one Indian working together. The labor component of the product, however, must be entirely Indian for the Indian art or craft object to be an “Indian product.”

(2) *Illustrations.* The term “Indian product” includes, but is not limited to:

(i) Art made by an Indian that is in a traditional or non-traditional style or medium;

(ii) Craft work made by an Indian that is in a traditional or non-traditional style or medium;

(iii) Handcraft made by an Indian, *i.e.* an object created with the help of only such devices as allow the manual skill of the maker to condition the shape and design of each individual product.

(3) *Examples of non-qualifying products.* An “Indian product” under the Act does not include any of the following, for example:

(i) A product in the style of an Indian art or craft product made by non-Indian labor;

(ii) A product in the style of an Indian art or craft product that is designed by an Indian but produced by non-Indian labor;

(iii) A product in the style of an Indian art or craft product that is assembled from a kit;

(iv) A product in the style of an Indian art or craft product originating from a commercial product, without substantial transformation provided by Indian artistic or craft work labor;

(v) Industrial products, which for this purpose are defined as goods that have an exclusively functional purpose, do not serve as a traditional artistic medium, and that do not lend themselves to Indian embellishment, such as appliances and vehicles. An industrial product may not become an Indian product.

(vi) A product in the style of an Indian art or craft product that is produced in an assembly line or related production line process using multiple workers not all whom are Indians. For example, if twenty people make up the labor to create the product(s), and one person is not Indian, the product is not an “Indian product.”

(e) *Indian tribe* means—

(1) Any Indian tribe, band, nation, Alaska Native village, or any organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

(2) Any Indian group that has been formally recognized as an Indian tribe by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority.

(f) *Product of a particular Indian tribe or Indian arts and crafts organization* means that the origin of a product is identified as a named Indian tribe or